

**STATE WATER CONTROL BOARD ENFORCEMENT ACTION
SPECIAL ORDER BY CONSENT
ISSUED TO
BRUNSWICK COUNTY SCHOOL BOARD
MEHERRIN-POWELLTON ELEMENTARY SCHOOL
VPDES Permit No. VA0027022
STURGEON ELEMENTARY SCHOOL
VPDES Permit No. VA0027014**

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code §§ 10.1-1185 and 62.1-44.15(8a) and (8d), between the State Water Control Board and the Brunswick County School Board, for the purpose of resolving certain violations of environmental law and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. “Va. Code” means the Code of Virginia (1950), as amended.
2. “Board” means the State Water Control Board, a permanent citizens’ board of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
3. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. “Director” means the Director of the Department of Environmental Quality.
5. “Order” means this document, also known as a Consent Special Order.

6. "The School Board" means the Brunswick County School Board owner of the Meherrin-Powellton Elementary School Wastewater Treatment Plant and the Sturgeon Elementary School Wastewater Treatment Plant.
7. "Meherrin Facility" means the Meherrin-Powellton Elementary School Wastewater Treatment Plant located in Lawrenceville, Virginia.
8. "Sturgeon Facility" means the Sturgeon Elementary School Wastewater Treatment Plant located in Lawrenceville, Virginia.
9. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
9. "Meherrin Permit" means VPDES permit No. VA0027022, which became effective April 26, 2002, and expires April 26, 2007.
10. "Sturgeon Permit" means VPDES permit No. VA0027014, which became effective April 26, 2002, and expires April 26, 2007.
11. "DMR" means discharge monitoring report.

SECTION C: Findings of Fact and Conclusions of Law

1. Brunswick County School Board owns and operates the Meherrin Facility in Lawrenceville, Virginia. The Meherrin Facility is the subject of VPDES Permit No. VA0027022, which allows the Meherrin Facility to discharge treated wastewater into an unnamed tributary of Greentown Branch in strict compliance with the terms, limitations and requirements outlined in the Permit. Brunswick County School Board also owns and operates the Sturgeon Facility in Lawrenceville, Virginia. The Sturgeon Facility is the subject of VPDES Permit No. VA0027014, which allows the Sturgeon Facility to discharge treated wastewater into an unnamed tributary of Flatrock Branch in strict compliance with the terms, limitations and requirements outlined in the Permit.
2. On February 7 and 10, 2003, the Department issued NOVs to the School Board for alleged permit violations at the Sturgeon Facility and the Meherrin Facility respectively. The Meherrin Facility was cited for failing to submit an O&M manual in a timely fashion and for submitting DMRs on the wrong form for September, October and December of 2002. In addition the Meherrin Facility was cited for a failure to meet the permit's minimum pH limit and for not reporting a maximum pH for the month of September 2002. The Sturgeon Facility was cited for failing to submit an O&M manual in a timely fashion, ammonia-nitrogen violations in September and October of 2002, BOD violations in December of 2002, and for failing to provide information pertaining to the effluent violations reported during the September through December 2002 monitoring periods.

3. On March 27, 2003, the Department issued NOVs to the School Board for alleged permit violations at both the Meherrin and Sturgeon Facilities. The Meherrin Facility was cited for submission of an incorrect DMR for January 2003 and failing to submit an O&M manual. The Sturgeon Facility was cited for a pH violation in January 2003, failure to provide information pertaining to the pH violation, failure to properly report the correct monitoring period and chlorine data on January 2003 DMR, and the continuing failure to submit the O&M Manual due July 26, 2002.
4. On April 10, 2003, the Department met with the School Board to discuss the violations that lead to the NOVs. The School Board submitted the O&M manual for both facilities at the meeting. The Department informed the School Board that proper reporting includes using the correct DMR form, reporting all of the required data, and submitting the data on time. The School Board stated that it would hire a consultant to assist it in proper reporting and to address the operational issues that lead to the effluent violations. Also discussed was the effluent violations reported by the School Board. The School Board felt that the NH3-N and BOD violations were a result of inadequate O&M at the treatment plant and an upgrade to meet those limits was not required
5. The School Board reported effluent violations of pH at the Meherrin Facility on the September and October 2003 DMR.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code § 62.1-44.15(8a) and (8d), orders Brunswick County School Board, and Brunswick County School Board agrees, to perform the actions described in Appendix A of this Order. In addition, the Board orders Brunswick County School Board, and Brunswick County School Board voluntarily agrees, to pay a civil charge of \$2,700 within 30 days of the effective date of the Order in settlement of the violations cited in this Order. The payment shall note that it is being made pursuant to this order and shall note the Federal Identification Number for Brunswick County School Board. Payment shall be by check, certified check, money order, or cashier's check payable to "ATreasurer of Virginia" and sent to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Brunswick County School Board, for good cause shown by Brunswick County School Board, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violations issued to

Brunswick County School Board by DEQ on **February 7 & 10, 2003 and March 27, 2003**. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.

3. For purposes of this Order and subsequent actions with respect to this Order, Brunswick County School Board admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Brunswick County School Board consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Brunswick County School Board declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Brunswick County School Board to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Brunswick County School Board shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Brunswick County School Board shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Brunswick County School Board shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;

- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which Brunswick County School Board intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

- 9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
- 10. This Order shall become effective upon execution by both the Director or his designee and Brunswick County School Board. Notwithstanding the foregoing, Brunswick County School Board agrees to be bound by any compliance date which precedes the effective date of this Order.
- 11. This Order shall continue in effect until:
 - a. Brunswick County School Board petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - b. The Director or Board terminates the Order in his or its sole discretion upon 30 days notice to Brunswick County School Board.

Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve Brunswick County School Board from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

- 12. By its signature below, Brunswick County School Board voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of _____, 2004.

Robert G. Burnley, Director
Department of Environmental Quality

Brunswick County School Board voluntarily agrees to the issuance of this Order.

By: _____

Date: _____

Commonwealth of Virginia

City/County of _____

The foregoing document was signed and acknowledged before me this _____ day of _____, 2003, by _____, who is (name)

_____ of Brunswick County School Board, on behalf of said Board. (title)

Notary Public

My commission expires: _____.

APPENDIX A

Brunswick County School Board shall:

1. **Within 30 days of the effective date of this Order**, submit to the Department for its review and approval, written standard operating procedures (SOP) for sampling and reporting as required by the Meherrin and Sturgeon Permits. The SOP shall be implemented immediately after Department approval.
2. **Within 30 days of the effective date of this Order, either** purchase a pH meter suitable for Department approval **or** hire a consultant to perform field analysis of effluent pH.
3. **Within 60 days of the effective date of this Order**, submit to the Department for its review and approval, a corrective action plan (CAP) to bring the Meherrin Facility into compliance with its pH permit limitation. The CAP shall be implemented immediately after Department approval.

Pursuant to this Order communications regarding this Order and its requirements shall be addressed as follows:

Frank Lupini
Department of Environmental Quality
Piedmont Regional Office
4949-A Cox Road
Glen Allen, Virginia 23060

Brunswick County School Board shall confirm, in writing, completion of the Order requirements to the above address **within five (5) days of completion**.